

**DETAILED ACTION**  
**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Justin Brask on 24 September 2009.

The application has been amended as follows:

Please cancel claims 38, 39, 41 and 42.

***Allowable Subject Matter***

Claims 1, 3-4, 6-8, 10-12, 14-15, 17-18, 20-22 , 44, 26-27, and 29-32 are allowed. Upon further review of the prior art, it was found that Bernashel et al. (as previously cited in other office actions) did have only one nitrogen concentration peak, but it was near the interface closest to the substrate and not near the film's surface, as claimed. Upon further searching, It was found that other prior art (for example, Hao et al. US 5939763) did teach a nitrogen concentration peak at the surface of the film using RTP, but failed to teach only one nitrogen concentration peak in the film as claimed. Hao et al., and other similar prior art, teaches two peaks – one at the surface of the film

and one at the interface of the film with the substrate or any other underlying films. Though there is motivation present to add a nitrogen concentration peak at the surface as taught by Hao et al. to the film of Bernashel et al., there is no motivation present to combine the one peak process of Bernashel et al. with the two peak process of Hao et al. One of ordinary skill in the art would not be motivated to simply replace the peak near the substrate with the peak near the surface without adding another peak near the substrate. Therefore, alone or in combination, the prior art does not meet the limitations of the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELLY GAMBETTA whose telephone number is (571)272-2668. The examiner can normally be reached on Monday - Thursday 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kelly M Gambetta  
Examiner  
Art Unit 1792

kmg

/Timothy H Meeks/  
Supervisory Patent Examiner, Art Unit 1792